

## REMARKS/ARGUMENTS

This Amendment and Response is responsive to the Office action dated May 14, 2007, setting forth a shortened three-month statutory period with two-month extension of time for reply expiring October 15, 2007, since October 14, 2007, fell on a Sunday. This response is submitted on October 15, 2007; thus, a petition and fee for a two-month extension of time accompany this Amendment and Response.

The Assignee thanks the Examiner for reviewing this application and issuing an Office action.

Prior to entry of this Amendment and Response, claims 13-19, 50 and 55-57 are pending in the application, with claim 13 being an independent claim. In this Amendment and Response, claims 13, 14, 16, 50 and 57 are amended and claim 58 is added. Accordingly, after entry of this Amendment and Response, claims 13-19, 50 and 55-58 are pending, with claim 13 being an independent claim.

### I. **Rejections under 35 U.S.C. § 102**

Claims 13-15, 17-19, 50 and 55-57 are rejected under 35 U.S.C. § 102 as anticipated by U.S. Pat. No. 6,565,702 issued to Forsyth (hereinafter "Forsyth"). For at least the following reasons, the Assignee respectfully disagrees with these rejections.

Claim 13 is amended to recite "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer." Support for this amendment may be found at least in Fig. 2, which shows that the garment facing side of foam pad 208 contacts the body facing side of foam layer 206 when the chamois layers are assembled, and in paragraph 23, which describes foam pad 208 as arranged on the elastic foam layer 206. Forsyth does not teach or suggest such a limitation.

Forsyth shows various versions of a chamois having foam pads, foam layers, and cloth layers. One version is generally depicted in Figs. 15-18. In this version, through-holes 37 and 38 (Fig. 15 and 17) and 72 (Figs. 16 and 18) are formed in their respective foam layer 36 (Figs. 15 and 17) and 71 (Figs. 16 and 18) to receive foam pads 39 and 40 (Figs. 15 and 17) and 73 (Figs. 16 and 18), respectively. Because the foam pads 39, 40 and 73 are received within the through-holes formed in the foam layer 36 and 71, the garment facing side of the foam pads 39, 40 and 73 does not contact the body facing side of their respective foam layer 36 and 71 as

recited in independent claim 13. Instead, the garment facing side of the foam pads 39, 40 and 73 contacts the body facing side of their respective cloth layer 35 (Figs. 15 and 17) and 70 (Figs. 16-18).

Another version of a chamois is shown in Figs. 19 and 20. In this version, cloth layer 41 (Fig. 19) and 74 (Fig. 20) is interposed between foam members 39 and 40 (Fig. 19) and 73 (Fig. 20) and foam layer 36 (Fig. 19) and 71 (Fig. 20). Because of this interposition of the cloth layer 41 and 74 between the foam members 39, 40 and 73 and the foam layer 36 and 71, the garment facing side of the foam members 39, 40 and 73 does not contact the body facing side of their respective foam layer 36 and 70 as recited in independent claim 13. Instead, like the previous version of a chamois shown in Figs. 15-18, the garment facing side of the foam pads 39, 40 and 73 contacts the body facing side of their respective cloth layers 41 and 74.

Yet another version of a chamois is shown in Figs. 6-8 and Figs. 11-13. In this version, each foam pad 16, 17, 21, 22, and 23 (Figs. 6-8) and 59-64 (Figs. 11-13) has a garment facing side that contacts a body facing side of a cloth layer (unnumbered) and thus does not have a garment facing side that contacts a body facing side of a foam layer as recited in independent claim 13.

For at least the foregoing reasons, each and every element in independent claim 13 is not taught or suggested in Forsyth. Accordingly, the Assignee respectfully submits that independent claim 13 is patentable over Forsyth and respectfully requests that the Examiner withdraw the rejection to claim 13 and allow it.

Claims 14, 15, 17-19, 50 and 55-57 depend, directly or indirectly, from independent claim 13. Since each of these claims depends from a patentably distinct independent claim, the dependent claims are themselves patentable. Accordingly, the Assignee respectfully requests the Examiner withdraw her rejections and allow these claims. The Assignee makes this statement without reference to or waiving the independent bases of patentability within the dependent claims.

## **II. Rejections under 35 U.S.C. § 103(a)**

Claim 16 is rejected under 35 U.S.C. § 103(a) as unpatentable over Forsyth in view of U.S. Pat. Publication No. 2005/0210570 to Garneau (hereinafter "Garneau"). For at least the following reasons, the Assignee respectfully disagrees with these rejections.

Amended claim 16 depends indirectly from claim 13 and thus includes all limitations of claim 13. As discussed in more detail above, claim 13 is patentable over Forsyth. Further, like Forsyth, Garneau does not teach or suggest each and every limitation in independent claim 13 and thus does not teach or suggest each and every limitation in claim 16.

Claim 13 recites "the first foam layer including a garment facing side contacting a body facing side of the first cloth layer." Claim 13 also recites "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer and a body facing side contacting a garment facing side of the second cloth layer". Garneau does not teach or suggest this combination of recitations.

Garneau depicts and describes a seat pad 10 including an inner layer 40, a middle layer 42, and an outer layer 44. (See Fig. 7 and paragraph 45.) The inner layer 40 is composed of a cloth-like material, the middle layer 42 is composed of an open cell foam, and the outer layer 44 is composed of a cloth-like material. (See paragraphs 47, 48 and 56). The middle foam layer 42 may be formed from three layers of foam material: a first layer 52, a second layer 54 and a third layer 56. (See Fig. 8 and paragraphs 50-53). The first layer 52 is disposed proximate the inner layer 40, and the inner layer 40 contacts the body of a cyclist. (See paragraphs 45 and 49). Although the second foam layer 54 of the middle foam layer 42 has a garment facing side that contacts the body facing side of the third layer 56 of middle foam layer 42, it does not contact the inner cloth layer 40. Instead, it contacts the first foam layer 52 of middle foam layer 42. (See Fig. 8). Accordingly, Garneau fails to teach or suggest the limitation of "the at least one foam pad including a garment facing side contacting a body facing side of the first foam layer and a body facing side contacting a garment facing side of the second cloth layer" as recited in claim 13 and dependent claim 16.

Further, substituting Garneau's middle foam layer 42 for any of Forsyth's foam pads 16, 17 and 21-23 (Figs. 6-8), 59-64 (Figs. 11-13), 39 and 40 (Figs. 15, 17 and 19), and 73 (Figs. 16, 18 and 20) or foam layers 36 (Figs. 15, 17 and 19) and 71 (Figs. 16, 18 and 20) would not result in a chamois as recited in claim 13, and thus claim 13 (and claim 16) are not rendered obvious by the combination of Forsyth and Garneau. With respect to substituting Garneau's middle foam layer 42 for Forsyth's foam pads 16, 17 and 21-23 (Figs. 6-8) and 59-64 (Figs. 11-13), such a substitution would result in three foam layers disposed between their respective inner and outer cloth layers (unnumbered). As discussed above, although the garment facing side of the second foam layer 54 of the middle foam layer 42 contacts the body facing side of the third

layer 56 of middle foam layer 42, its body facing side would not contact any cloth layer as recited in claim 13 because it would contact Garneau's first foam layer 52.

With respect to substituting Garneau's middle foam layer 42 for Forsyth's foam pads 39 and 40 (Figs. 15, 17 and 19) or foam pad 73 (Figs. 16, 18, and 20), again there would be no foam layer that has "a garment facing side contacting a body facing side of the first foam layer and a body facing side contacting a garment facing side of the second cloth layer" as recited in claim 13. Instead, as discussed above, the second foam layer 54 of Garneau, which has a garment facing side that contacts the body side of the third layer 56 of middle foam layer 42, would not contact a cloth layer as recited in claim 13 because its body facing side would contact Garneau's first foam layer 52. Finally, with respect to substituting Garneau's middle foam layer 42 for Forsyth's foam layers 36 (Figs. 15, 17 and 19) and 71 (Figs. 16, 18 and 20), again the second foam layer 54 of Garneau, which has a garment facing side that contacts the body side of the third layer 56 of middle foam layer 42, would not contact a cloth layer as recited in claim 13 because its body facing side would contact Garneau's first foam layer 52.

Accordingly, for at least the foregoing reasons, the Assignee respectfully submits independent claim 13 and dependent claim 16 are patentable over both Forsyth and Garneau, either alone or together, and respectfully requests that the Examiner withdraw the rejection of claim 16 and allow it. The Assignee makes this statement without reference to or waiving the independent bases of patentability within dependent claim 16.

### **III. New Claim**

New claim 58 depends from claim 13. Support for new claim 58 may be found at least in Fig. 2, where the garment facing side of foam layer 206 is shown as solely contacting cloth layer 204 and the perimeter of foam layer 206 is shown as encompassing the perimeter of foam pads 208. Further, claim 58 depends from claim 13, which is patentable over Forsyth and Garneau for at least the reasons set forth above. Since new claim 58 depends from a patentably distinct independent claim, the new claim is patentable. Accordingly, the Assignee respectfully requests the Examiner enter and allow this new claim. The Assignee makes this statement without reference to or waiving the independent bases of patentability within this dependent claim.

### **IV. Conclusion**

After entry of the above listing of claims and remarks, claims 13-19, 50, and 55-58 remain in the application. In accordance with the amendments and arguments set forth herein,

Application No. 10/711,710  
Response to Office Action of May 14, 2007

the Assignee respectfully submits the application and all claims are in a condition for allowance, and requests such prompt allowance.

This Amendment and Response is filed with a Petition for a two-month Extension of Time, and a request to charge Deposit Account No. 04-1415 for the extension of time in the amount of \$460. The Assignee believes no further fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this as authorization therefor and please charge such fees to Deposit Account number 04-1415.

Should any issues remain that the Examiner believes may be dealt with in a telephone conference, she is invited to contact the undersigned at 303-629-3400.

Signed this 15<sup>th</sup> day of October, 2007.

Respectfully submitted,



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